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IN THE

Supreme Court of the United States

OCTOBER TERM, 1936.

WORCESTER COUNTY TRUST COMPANY, Executor,
Petitioner,

v.

RAY L. RILEY, Controller of the State of California,
W. H. H. GENTRY, Inheritance Tax Attorney
of the State of California,

and

FRANK P. SPROUL, Inheritance Tax Appraiser of the
State of California,
Respondents.

BRIEF OF *AMICUS CURIAE.*

MAURICE BOWER SAUL,
2301 PACKARD BUILDING,
PHILADELPHIA, PA.
Attorney for Alpin W. Cameron, Executor
of the Estate of Alpin J. Cameron,
deceased, as *Amicus Curiae.*

SUBJECT INDEX.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1936. No. 922.

Worcester County Trust Company, Executor,
Petitioner,

v.

Ray L. Riley, Controller of the State of California, W. H. H. Gentry, Inheritance Tax Attorney of the State of California,

and

Frank P. Sproul, Inheritance Tax Appraiser of the State of California,
Respondents.

BRIEF OF ALPIN W. CAMERON, EXECUTOR OF THE ESTATE OF ALPIN J. CAMERON, DECEASED, AS *AMICUS CURIAE*.

I.

PRELIMINARY STATEMENT.

Alpin J. Cameron died on May 25, 1936. By his Will Alpin W. Cameron was named Executor; duly qualified and was appointed Executor by the Register of Wills in and for the County of Philadelphia, State of Pennsylvania, on June 9, 1936, the date of the

allowance of the Will in Pennsylvania. The deceased left real estate and tangible personal property in New Jersey and real estate and other tangible personal property in Pennsylvania, all of which is in the custody of Alpin W. Cameron.

The tax officials of each State are seeking the benefit of the fiduciary obligations of the *amicus curiae* as executor to settle all inheritance taxes. The tax officials of Pennsylvania assert an inheritance tax due that State based on their claim of domicile in Pennsylvania. The tax officials of New Jersey assert an inheritance tax due that State based on their claim of domicile in New Jersey.

The *amicus curiae,* by reason of such conflicting and inconsistent claims, filed a Bill in the Nature of an Interpleader in the District Court for the Eastern District of Pennsylvania and secured an Order restraining the tax officials of both States from taking steps to assess, determine or collect inheritance taxes from the Cameron Estate. The Bill prayed particularly for a determination of the domicile of the decedent in order to ascertain which tax officials are proceeding illegally. A copy of the Bill is annexed hereto and made a part hereof as Exhibit "A."

The aforesaid case involves similar facts and questions of law as those involved in the instant case pending before your Honorable Court on Petition for Writ of Certiorari and the decision of your Honorable Court in the said case will affect the case pending in the District Court of the United States for the Eastern District of Pennsylvania.

II.

ARGUMENT.

The importance of having your Honorable Court pass upon the question involved in the instant case is manifest when one considers the number of cases now pending involving the same issue and the hardships resulting from the denial of the remedy sought.

The anomaly and injustice sought to be avoided is the apparent one that it may be decided that the decedent at the time of his death was a resident of two states and his Estate subject to inheritance tax by both, when one conclusion must be wrong. There must be some remedy in the Federal Courts against such an unjust result and the most logical and appropriate relief is the application of Section 24 of the Judiciary Code, as amended by the Act of January 20, 1936, to the situation.

As to the law involved we cannot add anything to the able argument presented by the petitioner.

It is respectfully submitted that the Petition for a Writ of Certiorari in this case should be granted in order that the course of procedure to be followed in this growing list of vexatious cases may be made known for the guidance and protection of Executors and Administrators in the future.

Respectfully submitted,

MAURICE BOWER SAUL,
Counsel for Alpin W. Cameron, Executor of the Estate of Alpin J. Cameron, deceased, as *amicus curiae*.

APPENDIX.

EXHIBIT "A."

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

DECEMBER TERM, 1936. No. 9639.

Alpin W. Cameron, Executor under the Will of Alpin J. Cameron, deceased,

v.

Charles J. Margiotti, individually and as Attorney General of the Commonwealth of Pennsylvania, John B. Kelly, individually and as Secretary of Revenue of the Commonwealth of Pennsylvania, Harry V. Dougherty, individually and as Register of Wills for the County of Philadelphia, Commonwealth of Pennsylvania,

and

David T. Wilentz, individually and as Attorney General of the State of New Jersey, and J. Thayer Martin, individually and as State Tax Commissioner of the State of New Jersey, and William H. Albright, individually and as State Treasurer of the State of New Jersey.

BILL IN THE NATURE OF AN INTERPLEADER.

Alpin W. Cameron, Executor under the Will of Alpin J. Cameron, deceased, brings this bill under the provisions of the Federal Interpleader Act as

amended, being Public Act #422 of the 74th Congress, and complains and says:

1. That he is Executor under the Will of Alpin J. Cameron, deceased, that he is a citizen of the United States and resides at 1100 Walnut Street, Philadelphia, Commonwealth of Pennsylvania.

2. That the defendant, Charles J. Margiotti, is a citizen of the United States and a resident of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania, and is the duly appointed and qualified Attorney General of the Commonwealth of Pennsylvania.

3. That the defendant, John B. Kelly, is a citizen of the United States and a resident of the City of Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania, and is the duly appointed and qualified Secretary of Revenue of the said Commonwealth and as such the administrative head of the Department of Revenue of the Commonwealth of Pennsylvania.

4. That the defendant, Harry V. Dougherty, is a citizen of the United States and a resident of the City of Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania, and is the duly appointed and qualified Register of Wills for the County of Philadelphia, Commonwealth of Pennsylvania.

5. That the defendant, David T. Wilentz, is a citizen of the United States and a resident of the City of

Perth Amboy, Middlesex County, State of New Jersey, and is the duly appointed and qualified Attorney General of the State of New Jersey.

6. That the defendant, J. Thayer Martin, is a citizen of the United States and a resident of Woodbridge, Middlesex County, State of New Jersey, and is the duly appointed and qualified State Tax Commissioner of the State of New Jersey.

7. That the defendant, William H. Albright, is a citizen of the United States and a resident of Woodbury, Gloucester County, State of New Jersey, and is the duly appointed and qualified State Treasurer of the State of New Jersey.

8. On the 25th day of May, 1936, Alpin J. Cameron departed this life at St. Mary's Hospital, Frankford Avenue and Palmer Street, in the City of Philadelphia, Commonwealth of Pennsylvania, to the best of the complainant's knowledge, information and belief a citizen and resident of the Commonwealth of Pennsylvania, having resided at 4206 Chester Avenue, Philadelphia, Commonwealth of Pennsylvania.

9. On the 9th day of June, 1936, the last Will and Testament of Alpin J. Cameron, deceased, was duly probated in the Office of the Register of Wills in and for the County of Philadelphia, Commonwealth of Pennsylvania, and Letters Testamentary

thereon duly granted to Alpin W. Cameron, the complainant, by the Register of Wills of the aforesaid County. A copy of said Letters Testamentary including therein a copy of said Will is annexed hereto and made part hereof and marked Exhibit "A."

10. The said Alpin J. Cameron, deceased, died possessed of certain real and personal property of a value in excess of approximately $1,200,000., more particularly described as follows:

Real Estate in the State of New Jersey, located at Ridgewood, Bergen County	$100,853.00
Real Estate in the State of New Jersey, located at Cape May, Cape May County	7,500.00
Tangible personal property located in the State of New Jersey	3,560.05
Real Estate in the State of Pennsylvania, located in Chester County	8,000.00
Real Estate in the State of Pennsylvania, located in Philadelphia County	31,200.00
Tangible personal property located in the Commonwealth of Pennsylvania	8,996.25
Intangible personal property consisting of stocks, bonds, cash, etc. ...	1,076,283.64
Real Estate located in Muncie, Delaware County, State of Indiana ...	389.11

11. Your complainant has in his possession and custody money and property in an amount and value exceeding $500. to which the taxing authorities of the Commonwealth of Pennsylvania and the State of New Jersey, the respondents herein, claim to be entitled adversely to each other, but also under the applicable statutes of Pennsylvania (Act #258, Laws of 1919, as amended and supplemented through Act #21, Special Session Laws of 1936, and Act #859 of the Laws of 1927, as amended through Act #340, Laws of 1935) and New Jersey (Chapter 228, General Laws of 1909, as amended through and including Chapter 90, Laws of 1935, and Chapter 243 of the Laws of 1934), your complainant is under an obligation under the laws of the Commonwealth of Pennsylvania in such case made and provided and the laws of the State of New Jersey in such case made and provided, to pay, adjust and settle any and all estate, inheritance and succession taxes that may be due the Commonwealth of Pennsylvania and the State of New Jersey, irrespective of any demands made therefor, and the said respondent tax authorities of both states are claiming to be entitled to the benefits of said statutes in such case made and provided on the theory that the said Alpin J. Cameron died a resident of the state for which said respondent authorities are respectively acting.

12. Your complainant is informed and believes and therefore avers that under the provisions of said taxing statutes of each of said states a tax lien is

imposed on all of the property of the said estate of Alpin J. Cameron of which your complainant is Executor until all taxes assessed by said states are paid and that the respondents will claim and are claiming to be entitled to the benefit of such liens.

13. Your Complainant is informed and believes and therefore avers that the respondents, Charles J. Margiotti, Attorney General as aforesaid, and John B. Kelly, Secretary of Revenue as aforesaid, of the Commonwealth of Pennsylvania, and Harry V. Dougherty, Register of Wills of the County of Philadelphia as aforesaid, have determined that the said Alpin J. Cameron died domiciled in the City and County of Philadelphia, Commonwealth of Pennsylvania, and are asserting and have threatened and are about to assess and attempt to collect from your complainant and the estate in his charge estate and succession taxes under the provisions of the Statutes of the Commonwealth of Pennsylvania in such case made and provided based upon said domicile or determination of domicile in an amount of approximately $40,000., and that if the said Alpin J. Cameron died a non-resident of and not domiciled in the Commonwealth of Pennsylvania, the estate and succession taxes under the laws of the Commonwealth of Pennsylvania in such case made and provided would be a comparatively small amount.

14. Your complainant is informed and believes and therefore avers that the respondents, David T.

Wilentz, Attorney General of the State of New Jersey, J. Thayer Martin, State Tax Commissioner of the State of New Jersey, and William H. Albright, State Treasurer of the State of New Jersey, have determined that the said Alpin J. Cameron died domiciled in Ridgewood, Bergen County, State of New Jersey, and are asserting and have threatened and are about to assess and attempt to collect from your complainant and the estate in his charge estate and succession taxes under the provisions of the Statutes of the State of New Jersey in such case made and provided based upon said domicile or determination of domicile in an amount of approximately $75,000.00, and that if the said Alpin J. Cameron died a non-resident of and not domiciled in the State of New Jersey, the estate and succession taxes under the laws of the State of New Jersey in such case made and provided would be a comparatively small amount.

15. That it is impossible in law or fact for the said Alpin J. Cameron to have been domiciled at the time of his death in both the Commonwealth of Pennsylvania and the State of New Jersey and it should not be possible for estate, inheritance and succession taxes to be so asserted, threatened, assessed and collected by the taxing officials of said two states.

16. Your complainant is informed, believes and therefore avers that there is little likelihood of any controversy between your complainant, executor as aforesaid, on the one hand, and the respond-

ents, Charles J. Margiotti, Attorney General as aforesaid, John B. Kelly, Secretary of Revenue as aforesaid, of the Commonwealth of Pennsylvania, and Harry V. Dougherty, Register of Wills of the County of Philadelphia as aforesaid, on the other hand, as to Pennsylvania taxes, their computation, assessment and collection, if the question of domicile is finally determined, or of any controversy between your complainant, executor as aforesaid, on the one hand, and the respondents, David T. Wilentz, Attorney General of the State of New Jersey, J. Thayer Martin, State Tax Commissioner of the State of New Jersey, and William H. Albright, State Treasurer of the State of New Jersey, on the other hand, as to New Jersey taxes, their computation, assessment and collection, if the question of domicile is finally determined, but that the main controversy relates to a sum of between approximately $40,000. and approximately $75,000. in the custody and possession of your complainant and to complainant's obligation with respect thereto, which under the said tax laws of the said Commonwealth of Pennsylvania and State of New Jersey in such case made and provided, the taxing authorities of which are respectively claiming adversely to one another.

17. The threatened collection of taxes by both the Commonwealth of Pennsylvania and the State of New Jersey, each based upon an inconsistent claim of domicile, will deprive your complainant and the estate in his charge of property without due process of law

and deny him equal protection of the laws in contravention of the Fourteenth Amendment to the Constitution of the United States; the threatened assessment and collection of both said taxes, each based upon an inconsistent claim of domicile, is causing irreparable injury by interfering with the administration of the estate both in the Commonwealth of Pennsylvania and the State of New Jersey causing extra expense and preventing distribution, and will subject your complainant and the estate to interest charges and penalties if not paid at the expiration of one year after the date of the death of the said decedent.

18. Your complainant has no adequate remedy at law and therefore brings this bill in the nature of an interpleader under the provisions of the Federal Interpleader Act, as amended, being Public Act #422 of the 7th Congress, a copy of which is annexed hereto as Exhibit "B".

19. Your complainant has given bond payable to the Clerk of your Honorable Court in such amount and with such surety as this Court has deemed proper conditioned upon compliance by your complainant with a future order or decree of this Court with respect to the subject matter of this controversy.

Wherefore your complainant prays:

(1) That this court enter a temporary restraining order enjoining the respondents and each of them,

their agents and servants, until further order of this court, from taking any action to fix or assess any estate, inheritance or succession tax on transfers caused by the death of the said Alpin J. Cameron and from taking any action to claim any estate, inheritance or succession tax from the Estate of Alpin J. Cameron or Alpin W. Cameron as executor under the Will of Alpin J. Cameron, deceased.

(2) That this court determine the domicile of the said Alpin J. Cameron at the time of his death and thereupon enter a permanent order enjoining those respondents who are officials of the non-domiciliary state, their agents and servants, from taking any action to collect any estate, inheritance or succession tax based upon any domicile except as so determined by your Honorable Court.

(3) That each of the respondents be required to set forth and plead their several adverse claims to said money and property in the custody and possession of your complainant and to any one or more of the benefits arising by virtue of the complainant's obligation to pay estate, inheritance or succession taxes on account of the death of the said Alpin J. Cameron.

(4) That this court determine the person or persons entitled to said money and property and to any benefit arising by virtue of complainant's said obligation to pay said taxes.

(5) That this court determine the amount owed to any one or more of the respondents by your complainant.

(6) That this court adjudge that your complainant is under no further obligation to any one or more of the respondents upon compliance by your complainant with such decree as this court may make in the premises.

(7) That your complainant be awarded its costs, including a reasonable attorneys' fee to be deducted from any amount which may be decreed due to respondents or any of them.

(8) That this court order such other and further relief as is proper under the circumstances.

(Signed) ALPIN W. CAMERON,
Executor under the Will of Alpin J. Cameron, deceased.

COMMONWEALTH OF PENNSYLVANIA }
CITY & COUNTY OF PHILADELPHIA } *ss:*

ALPIN W. CAMERON, being duly sworn according to law, deposes and says that he is Executor under the Will of Alpin J. Cameron, deceased, and that the facts set forth in the foregoing Bill are true and correct to the best of his knowledge, information and belief.

Sworn to and Subscribed before me this 17th day of February, 1937.

(Sgd.) M. A. HIRSCHFELD,
Notary Public.

[SEAL]

My Commission expires April 1st, 1937.

EXHIBIT "A."

No. 9783

COMMONWEALTH OF PENNSYLVANIA, } ss.
COUNTY OF PHILADELPHIA, }

LETTERS TESTAMENTARY

By the tenor of these presents, I, Harry V. Dougherty, Register for the Probate of Wills and Granting Letters of Administration in and for the County of Philadelphia, in the Commonwealth of Pennsylvania.

DO MAKE KNOWN TO ALL MEN That on the 9th day of June A. D. 1936, at Philadelphia, before me, was proved and approved the last Will and Testament of Alpin J. Cameron deceased (a true copy whereof is to these presents annexed), having whilst he lived at the time of his death, divers Goods, Chattels, Rights and Credits, within the said Commonwealth; by reason whereof the approbation and insinuation of said last Will and Testament, and the committing administration of all and singular the Goods, Chattels, Rights and Credits, which were of the said deceased; and also the auditing the accounts, calculations and reckonings of the said administration and absolute care of the same, to me are manifestly known to belong; and that administration of all and singular the Goods, Chattels, Rights and Credits of said deceased any way concerning his last Will and Testament, is committed to Alpin W. Cameron Executor in the said Testament named; he having first been duly sworn well and truly to administer the Goods, Chattels, Rights and Credits

of the deceased, and make a true and perfect inventory thereof and exhibit the same into the Register's Office of Philadelphia, within thirty days from the date hereof, and to render a just and true account, calculation and reckoning of the said administration at the expiration of six months from the date hereof, or when thereunto required by the Orphans' Court; and also diligently and faithfully to regard and well and truly comply with the provisions of the acts relating to Inheritance Taxes.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of office, at Philadelphia, this 9th day of June, in the year of our Lord one thousand nine hundred and Thirty-six.

The said testator died on the 25th day of May 1936, at 3.12 o'clock A. M., as per affidavit filed.

ROBERT T. IVES
Deputy Register.

[SEAL]

Fees for Letters Testamentary,	$61.00
" " Certificate	5.00
" " Filing Renunciation, ..	———
Paid	$66.00

BE IT REMEMBERED that I, ALPIN J. CAMERON, of the Town of Ridgewood, County of Bergen, State of New Jersey, being of sound and disposing mind, memory and understanding, make, publish and declare this to be my last Will and Testament, hereby revoking all other and former wills by me at any time heretofore made.

FIRST. I direct that all my just debts and funeral expenses shall be paid by my Executor as soon after my decease as may be convenient.

SECOND. All my ordinary house furnishings on my Wawaset Farm, Chester County, Pennsylvania, and in my Philadelphia house 4206 Chester Avenue, and my antique furniture, books, paintings and works of art I give and bequeath unto my son, Alpin W. Cameron.

THIRD. I give and bequeath the sum of Fifteen Hundred Dollars ($1,500) unto the Girard Trust Company to hold and invest the same and keep the same safely invested and use and apply the income therefrom in and about the perpetual care and maintenance of my cemetery lots in St. Luke's Churchyard, Ho-Ho-Kus, New Jersey.

FOURTH. All of the stock in the Girard Trust Company owned by me at the time of my death, I give and bequeath unto my Trustees to hold the same and pay over the income therefrom unto my son Alpin W. Cameron for life, free and clear of his debts, contracts, engagements, alienations and anticipations, so that the same shall not be liable to any levy, attachment, execution or sequestration. In Trust upon his death to assign, transfer, pay over and divide the same to and among his wife and descendants living at the time of his death, share and share alike, *per stirpes* upon the principle of representation, his said wife to take a child's share, or should my said son die without leaving either

wife or descendants him surviving, to assign, transfer and pay over the same in such way and manner as my said son may by his last Will and Testament direct, limit and appoint.

FIFTH. I direct that my Executor select and set aside securities of a par value of Sixty Thousand Dollars ($60,000) and the securities thus selected I give and bequeath unto my Trustees hereinafter named IN TRUST to hold and invest the same, keep the same safely invested and pay over out of the income therefrom the sum of Fifty Dollars ($50.00) per month, beginning at the expiration of one month after my death, for life, to each of my nieces, Caroline Graydon, Jessie Wilson, Agnes Maxwell, Alice Maxwell and Kathleen C. Maxwell, who may be living at each time of monthly distribution. Any income from the said fund not required for this purpose shall be periodically paid over to my son Alpin W. Cameron for life.

IN TRUST upon the death of the last survivor of my said five nieces, to assign, transfer and pay over the corpus or principal of the said fund to my said son Alpin W. Cameron, should he be then living, or should he be then dead in such way and manner and to such persons and for such uses and estates as he may by his last Will and Testament direct, limit and appoint.

SIXTH. I direct that my Executor select and set aside securities of a par value of Thirty Thousand Dollars ($30,000) and the securities thus selected I give and bequeath unto my Trustees hereinafter

named IN TRUST to hold and invest the same, keep the same safely invested and pay over out of the income therefrom the sum of Twenty Dollars ($20.00) a week, beginning at the expiration of one week after my death, for life, unto Margaret Newell. Any income from the said fund not required for this purpose shall be paid over periodically unto my son Alpin W. Cameron for life. IN TRUST upon the death of the said Margaret Newell, to assign, transfer, pay over and divide the principal of the said fund of Thirty Thousand Dollars ($30,000) to and among any children who may survive her in such shares and proportions as the said Margaret Newell may by her last Will and Testament direct, limit and appoint. IN TRUST as to the balance of the said fund or the whole thereof should there be no children surviving the said Margaret Newell, to assign, transfer and pay over the same unto my said son Alpin W. Cameron, should he be then living, or should he be then dead in such way and manner and to such persons and for such uses and estates as he may by his last Will and Testament, direct, limit and appoint.

SEVENTH. I direct that all the foregoing gifts, bequests and life interests shall be paid free and clear of all succession, inheritance or estate taxes, which taxes I direct to be paid out of the principal of my residuary estate.

EIGHTH. All the rest, residue and remainder of my estate, of whatever nature and wheresoever situated, real, personal and mixed, I give, devise and bequeath unto my son Alpin W. Cameron absolutely.

NINTH. I hereby name, constitute and appoint my son Alpin W. Cameron, Executor of this my last Will and Testament, and my son Alpin W. Cameron and Girard Trust Company, Trustees under this my last Will and Testament.

My said Executor, for the purpose of administering my estate and the payment of my debts, and thereafter my said Trustees for the purpose of the administration of the same and the ultimate distribution thereof in accordance with the terms of this my last Will, shall, in addition to and not in limitation of any authority given them by law, have the right and authority to exercise any of the following powers, viz:

1. To sell any real estate which may at any time form part of my estate for such prices, upon such terms, in such way and manner, and for such interests and estates as may be deemed wise, and to make good deeds therefor to the purchaser or purchasers thereof without any obligation on the latter to see to or be responsible for the application of the purchase money.

2. To retain in their discretion, without liability, any of my investments in the form in which they may be at the time of my decease.

3. To invest and reinvest, alter, vary and change investments and reinvestments from time to time, at discretion, not being confined to what are known as "Legal Investments" any statute to the contrary notwithstanding.

4. To purchase investments at a premium and to charge the premium over to principal or income, or partly to principal and partly to income, as they shall deem best.

5. To sell any securities or other personal property which may at any time form part of my estate for such prices, upon such terms, in such way and manner and for such interests and estates as may be deemed wise, and to make good transfers and assignments therefor to the purchaser or purchasers thereof without any obligation on the latter to see to or be responsible for the application of the purchase money.

In Witness Whereof I have hereunto set my hand and seal this 6th day of June A. D. 1935.

ALPIN J. CAMERON [SEAL]

SIGNED, SEALED, PUBLISHED AND DECLARED by the above named ALPIN J. CAMERON as and for his last Will and Testament, in the presence of us who at his request, in his presence and in the presence of each other, all present at the same time, have hereunto subscribed our names as witnesses.

STANLEY S. HAZZARD
47 No. Maple Ave., Ridgewood, N. J.
HENRY E. SCHMULTS
216 Elmwood Ave., Hoboken, N. J.
WILLIAM V. C. WESTERCRET
35 Garfield Place, Ridgewood, N. J.

EXHIBIT "B."

[PUBLIC—No. 422—74TH CONGRESS] [S. 1277]

AN ACT To amend section 24 of the Judicial Code by conferring on district courts additional jurisdiction of bills of interpleader, and of bills in the nature of interpleader.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 24 of the Judicial Code, as amended, is amended by inserting at the end thereof the following:

"(26) Original jurisdiction of bills of interpleader, and of bills in the nature of interpleader—Twenty-sixth.—(a) Of suits in equity begun by bills of interpleader or bills in the nature of bills of interpleader duly verified, filed by any person, firm, corporation, association, or society having in his or its custody or possession money or property of the value of $500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of the value or amount of $500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of $500 or more, if—

"(i) Two or more adverse claimants, citizens of different States, are claiming to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy, or other instrument, or arising by virtue of any such obligation; and

"(ii) The complainant (a) has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court; or (b) has given bond payable to the clerk of the court in such amount and with such surety as the court or judge may deem proper, conditioned upon the compliance by the complainant with the future order or decree of the court with respect to the subject matter of the controversy.

Such a suit in equity may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but are adverse to and independent of one another.

"(b) Such a suit may be brought in the district court of the district in which one or more of such claimants resides or reside.

"(c) Notwithstanding any provision of the Judicial Code to the contrary, said court shall have power to issue its process for all such claimants and to issue an order of injunction against each of them, enjoining them from instituting or prosecuting any suit or proceeding in any State court or in any United States court on account of such money or property or on such instrument or obligation until the further order of the court; which process and order of injunction shall be returnable at such time as the said court or a judge thereof shall determine and shall be addressed to and served by the United States marshals for the

respective districts wherein said claimants reside or may be found.

"(d) Said court shall hear and determine the cause and shall discharge the complainant from further liability; and shall make the injunction permanent and enter all such other orders and decrees as may be necessary or convenient to carry out and enforce the same.

"(e) In any action at law in a United States District Court against any person, firm, corporation, association, or society, such defendant may set up by way of equitable defense, in accordance with section 274b of the Judicial Code (U. S. C., title 28, sec. 398), any matter which would entitle such person, firm, corporation, association, or society to file an original or ancillary bill of interpleader or bill in the nature of interpleader in the same court or in any other United States District Court against the plaintiff in such action at law and one or more other adverse claimants, under the provisions of paragraph (a) of this subsection or any other provision of the Judicial Code and the rules of court made pursuant thereto. The defendant may join as parties to such equitable defense any claimant or claimants who are not already parties to such action at law. The district court in which such equitable defense is interposed shall thereby possess the powers conferred upon district courts by paragraphs (c) and (d) of this subsection and by section 274b of the Judicial Code."

SEC. 2. The Act entitled "An Act authorizing casualty companies, surety companies, insurance companies or associations or fraternal or beneficial societies to file bills of interpleader," approved May 8, 1926 (U. S. C., Supp. III, title 28, sec. 41 (26)), is hereby repealed. Said repeal shall not affect any act done or any right, accruing or accrued in any suit or proceeding had or commenced under said Act hereby repealed, prior to the passage of this Act, but all such acts or rights, suits or proceedings shall continue and be valid and may be prosecuted and enforced in the same manner as if said Act had not been repealed hereby.

Approved, January 20, 1936.